IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

A.O.NO.355 OF 2005

M/s. Associated Capsules Ltd. .. Appellant

vs.

The Municipal Corporation of
Greater Mumbai. .. Respondent.

Mr. Narula i/b. Heena Mehta, for the Appellant.

Mrs.Geeta Joglekar for the Respondent.

CORAM : A.S.OKA, J.

DATED : 12th April, 2005.

P.C. :

1. Admit.

2. Respondent waives service.

3. The challenge in this Appeal from Order is to the Judgment and Order dated 23.2.2005 by which Notice of Motion taken out by the Appellant Plaintiff for temporary injunction has been dismissed.

4. Shri Narula, learned Counsel for the Appellant pointed out that in the year 1975

permission was granted in favour of the Appellant for construction of temporary structure and the said permission was renewed from time to time till the year 1988. Shri Narula placed reliance on the judgment of the learned Single Judge of this Court reported in 1991(2) Mah.L.R.1014, (Keshavji Dhanji versus Municipal Corporation of Greater Bombay) and submitted that as from time to time permission granted to erect temporary structure was renewed by the Respondent Corporation, the case of the Appellant for regularisation of the suit structure ought to be considered by the Respondent. He states that an application for regularisation of the suit structure will be made by the Appellant in the prescribed form to the Competent Authority [the Executive Engineer (Building Proposal) Western Suburb] of Respondent Corporation within a period of four weeks and till the time the application is not decided the suit structure may be protected.

5. I have heard the learned Counsel appearing for the Respondent Corporation. The learned Counsel stated that if application for regularisation is made the same will be decided within a period of four weeks from the date of receipt of the said application.

6. In view of the aforesaid statements made before me, I pass the following order:

i) If application for regularisation in prescribed form is made by the Appellant to the Executive Engineer, Building Proposal, Western Suburb, within a period of four weeks from today, the concerned authority will decide the Application within four weeks from the date of receipt of the application and will communicate the order passed on the said application to the Appellant within a period of one week from the date of decision.

ii) If application for regularisation is made within the period of four weeks from today, Action of demolition of the suit structure will not be taken for a period of twelve weeks from today.

iii) If the application is not made within four weeks for regularisation, it will be open for the Respondent Corporation to take action of demolition against the

suit structure.

iv) The application for regularisation will be decided on its own merits.

v) The Appeal from Order is disposed of in above terms with no order as to costs.

Parties to act on the authenticated copy of this order.

(A.S.Oka, J.)